

“Exceptional Circumstance” SEP Recommendation

Loss of Job-Based Coverage due to Employer Failure to Pay Premiums

September 17, 2015

Problem: Loss of Job-Based Coverage due to Employer Failure to Pay Premiums

There are times when employees learn that their employer has dropped their health insurance coverage 60 days or more after that drop has occurred. In those instances, as HBX SEP rules currently function, the individual is outside of the 60-day SEP eligibility window and ineligible – through no fault of their own – to purchase individual coverage from DC Health Link until the next open enrollment period or they meet other SEP criteria.

- 1) Under SHOP rules, employers are given a 60 day grace period to pay their portion of the premiums. If an employer fails to pay, the health plans are terminated retroactively to the last day for which coverage was paid. Employees are then given notice of this loss of coverage. However, under 155.420(d)(1), the triggering date for the loss of MEC SEP for individuals is the date of the loss of coverage, not the date you learn about the loss of coverage. Essentially, the SEP has already expired by the time the consumer learns about the loss.
- 2) This problem is not limited to SHOP (although that is the primary motivator for the SEP). The SEP review team has encountered a very limited number of cases where a customer loses off-Exchange ESI and does not get notice until after the 60-day window has expired. For example, this may occur when a company is going bankrupt and was not paying its portion of the premiums.

Recommended Solution:

The staff recommends creating a new “exceptional circumstance” to allow consumers a 60-day window to select new coverage that begins on the date that the consumer is notified of their loss of coverage.

SEP Language:

Losing access to a group health plan, or other employer-sponsored coverage, because an employer that is responsible for submitting a portion (or all) of the premiums fails to submit them on time. The triggering event shall be when the notice is received by the individual of a loss of coverage. The effective date of coverage shall be based on circumstances as determined by the Authority with the intent of preventing gaps in health coverage for the consumer.